

## **ACCOUNTING FOR TRUST MONIES**

### **For Courts Using the Caselle Case Management System<sup>1</sup> (revised 4/06)**

#### **Possible Issues**

- Cash bail delivered to the court from the county jail is not documented on a control listing or a receipt issued by the court at the time of receipt.
- The court does not use the trust accounting features available on the case management system.
- Cash bail, including Finders monies,<sup>2</sup> is held and not deposited in the bank or with the local government treasurer until its disposition is known.
- Cash bail is applied as revenue directly before the defendant has appeared for offenses requiring a mandatory appearance.
- Finders monies are applied as revenue directly and not held in trust for the statutory 40-day period.
- Cash bail held in trust, including Finders monies, is not monitored to ensure that the bail is either forfeited, applied, or refunded, based on judicial order when appropriate. If the payee cannot be located, the monies should be remitted to the Division of Unclaimed Property, per procedures described in UCA §§ 67-4a-203 and 207.
- There are no tracking procedures to identify overpayments and third party payments and ensure that the monies are paid out promptly to the party(ies) entitled to receive it.
- There are no procedures in place to account for payments received when the case/citation cannot be identified.

#### **Trust Monies Defined**

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<sup>1</sup> This document is available on the web at:  
<http://www.utcourts.gov/courts/just/audit/procedures.asp>. The procedures have been compiled from various resources, including various state laws and judicial rules applicable to justice court, the manual of Suggested Accounting Procedures for Justice Courts, published by the Administrative Office of the Courts, and the monograph published by the National Center for State Courts, Internal Control of Court-Collected Funds, by Robert W. Tobin.

<sup>2</sup> Finders checks are tax refund checks forwarded to the court under the provisions of UCA § 59-10-529 and held in trust for 40 days per the procedures described as follows:

Per subsection (1)(c), a defendant's tax refund may be forwarded to the court and credited as bail to ensure his/her appearance before the court. The Tax Commission sends notice to the taxpayer that the tax refund has been sent to the court as bail to guarantee the defendant's appearance in court. If after 40 days the defendant does not respond to the notice and resolve the warrant, the tax refund is forfeited and applied to any fine or forfeiture which is due. Notice of the forfeiture is mailed to the taxpayer.

Court payments that are deemed trust monies include:

- 1) Cash bail posted to secure a defendant's appearance in court;
- 2) Tax refund checks forwarded to the court where the defendant has a warrant outstanding (currently known as the Finders Program, previously referred to as Gotcha);
- 3) Restitution collected and disbursed by the court,
- 4) Reimbursements for services per judicial order, e.g. attorney fees, jail reimbursement, treatment programs;
- 5) Overpayments;
- 6) Payments received when the case/citation cannot be identified.

## **Basic Procedures**

Using the procedures designed for the Caselle case management system per the *Court Management User Guide*, updated October 2004.

### **1.1 Receipt of Cash Bail Monies including Finders Checks**

- Receipt the cash bail monies in the Cash Receipting module. Be sure to select the "Cash Bail Posted" distribution category (or the payment will be applied as revenue to the bail/fine balance). The cash bail monies will appear as an "Un-updated Amount" on the Cash Receipting Payment Update when the daily balancing procedures are performed and reports are generated.
- Create a "New Trust" in Trust Setup (access from *Case Management Main Menu / Data Entry / Case Entry / Trust Setup*) to post cash bail in the individual case docket. Use the codes set up by the case management system vendor (refer to *Court Management User Guide, updated October 2004*, p. 117).

During balancing procedures, verify that all cash bail received is included on the "New Trust" line of the Payment Allocation Report. If the total on this line does not agree with the cash bail received, it is likely because a "New Trust" has not been created for one or more of the payments. To identify the omitted cash bail, print a "New Trust" report for the current accounting period and compare the detail amounts listed to the cash bail received per the Cash Receipt Register.

### **1.2 Receipt of Restitution and Other Third Party Reimbursements (Attorney Fees, Jail Reimbursement, etc.)**

- These types of trust are receipted in the Cash Receipting module by selecting the "Court Payment" distribution category. The case management system is programmed to allocate any payments first to restitution and other third-party accounts before applying any payments to

revenue. Check with the case management system vendor to ensure the codes are set up properly and to verify the codes that should be used.

- Monitor receipt and disbursement of restitution and other third party reimbursements by reviewing the daily Collections Summary, the monthly Collections Summary, and the Restitution Report per the procedures described in section 2.2.

### **1.3 Receipt of Monies When an Overpayment Results**

- When the court receives more money than is owed, an overpayment results.<sup>3</sup> (The system will show the overpayment portion as an unapplied payment.) To provide a proper record of events, the overpayment amount should be deposited and disbursed through the disbursement process described below in section 3.1. Until the overpayment is disbursed, it should be accounted for as trust monies because it is monies held for another person.

Monitor the disbursement of overpayments per the procedures described in section 2.2 below.

### **1.4 Payments Received When the Case/Citation Cannot Be Identified**

- If payments are received but the case/citation cannot be identified, the monies can be receipted as trust monies and held for a reasonable time (e.g. 30 days) until the case/citation can be located.<sup>4</sup> Select a trust type distribution category in the Cash Receipting module. Contact the case management system vendor for instructions on how to create a trust-type distribution if one has not been created. Instructions are also found in the *Cash Receipting User Guide*, updated October 2004, pp 8, 28.
- If the court has a policy that payments received without a case will be deposited and held in trust for a reasonable time until the case/citation can be located, the payment should be deposited within 3 business days. The policy should also provide that, if after the holding period the case /citation has not been located, the monies will be returned to the payer. If the

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<sup>3</sup> The court may want to adopt a policy that an overpayment which exceeds a set amount is refunded, and an overpayment less than the amount is retained as miscellaneous court revenue, unless the payer requests a refund. This is the policy in State Courts. However, if payment was by check, the refund could be delayed for 10 business days to ensure the payer's check was honored, as described in the section "*Release of Monies Held in Trust*."

<sup>4</sup> Some courts have a policy that payments without a case/citation will be returned if received by mail, or rejected if the payment is submitted in person and the payer is asked to return when the court has received the citation. From a customer service standpoint, it is practical to accept such payments even though the citation has not been received from the issuing law enforcement agency. If the payer has a copy of the citation and it can be clearly determined the citation will be referred to that justice court, the court can enter the citation based on the copy provided by the payer. If the payer does not have a copy of the citation, the court can still accept the payment, and deposit and account for it as trust monies per these procedures until the case/citation can be identified or returned to the payer.

payee cannot be located, the monies should be handled as unclaimed property, per UCA §§ 67-4a-203 and 207.

## **2.1 Monitoring Procedures for Cash Bail Held in Trust (Mandatory Appearance Cases and Finders Checks)**

- Deposit in trust cash bail posted to guarantee appearance and hold until the court disposes of the bail (directs that the monies be applied, forfeited, or refunded).
- Deposit Finders checks in trust and hold it until the 40 day period expires or the defendant has contacted the court and the court has directed disposition of the bail. If after 40 days the defendant does not respond to the notice and resolve the warrant, the tax refund can be forfeited and applied to any fine or forfeiture which is due (in cases where no appearance is required). However, if a balance remains, the bail amount on the warrant should be reduced by the amount of the Finders check amount applied. If appearance is required and the date for appearance has past, the court can forfeit the bail and leave the warrant outstanding. Notice of the forfeiture is mailed to the defendant.
- Monitor cash bail held in trust at least monthly to ensure trust monies are held and disbursed properly. Generate the Cash Bail Outstanding Report for a list of cash bail held per the court records. Verify that the monies held per this listing should be held; for example, that a hearing is pending or a warrant is outstanding. If a warrant has been issued for failure to appear on the charges for which the bail was posted bring the case before the judge for a decision as to whether the bail should be forfeited or continue to be held in trust.

## **2.2 Monitoring Procedures for Other Monies Held in Trust**

### ***Restitution and Other Third-Party Payments***

- Monitor receipt of restitution and other third-party payments by reviewing the daily Collections Summary. If amounts appear under the "3rd Party - Collected" category, run the Restitution Report to identify the party(ies) to be paid. The disbursement information will need to be obtained from detailed docket entries or from the case file.

It is important that the daily Collections Summary is monitored so that these payments can be identified and paid out promptly to the party(ies) entitled to receive it.

- At least monthly, run the Restitution Report to monitor restitution and other third-party payments received and disbursed. Use the report to verify that restitution and third-party payments have been paid out timely and that amounts paid are accurate and complete.
- At month-end when the monthly reports are prepared, the "Third-Party Collected" category on the Collections Summary will show the total third-party payments collected. Review this amount and compare it to

amounts received and paid out during the month to verify that all monies were paid out properly.

### **Overpayments**

- The Daily Collections Summary is used to identify overpayments and any other payments that could not be applied properly. If "unapplied" amounts appear on the "Total - Other" category, identify the applicable case(s) by reviewing the Collections Detail Report. As part of the month-end procedures, the Collections Summary (and Collections Detail if necessary) should be reviewed for unapplied payments in the "Total - Other" category. Verify that any overpayments included in this total are scheduled for refund.
- The Credit Balance - Aging Report can also be used to ensure any overpayments have been refunded. However, reviewing the Daily Collections Summary as described above ensures any overpayments are identified and refunded more promptly. Any case that appears on the Credit Balance - Aging Report needs to be researched because a credit balance would be unusual. Contact the vendor if this report is not listed in the drop down box on the *Aging Report* screen (access from *Court Management Main Menu / Reports / Aging Report*). Generate this report monthly to ensure all overpayments have been refunded.

### **Payments Received When the Case Cannot be Identified**

- Monitoring procedures need to be established to ensure unidentified payments are receipted promptly, and deposited within 3 business days. Payments should be applied to the proper case or returned to the payer within a reasonable period of time, as determined by management.

Currently, the Caselle case management system does not have a method for holding unidentified payments and tracking the payments on a control listing. To provide accounting control over such payments, the court could manually record the unidentified payments on a control listing/log. The listing could record the payment information (name, date, amount, etc.), date of deposit, and date the monies should be returned if the case/citation is not identified.

## **3.1 Release of Monies Held in Trust**

### **Cash Bail Forfeited/Applied**

- For cash bail trust monies forfeited/applied as revenue, make the appropriate docket entries. Use the codes set up by the case management system vendor (refer to *Court Management User Guide, updated October 2004*, p. 117).

Print the Trust Applied Report and include it with the daily accounting reports for balancing purposes. The trust monies transferred to revenue (applied), plus actual monies deposited, less new cash bail

and other un-updated payments, will equal the total collections per the Collections Summary.

A copy of the Trust Applied will also need to be forwarded to the local government with the deposit so the appropriate entries can be posted to the court trust account in the general ledger.

***Unidentified Payments Now Receipted Because the Case/Citation Has Been Identified***

- For trust monies held until the case/citation is identified, do the following when the case/citation is identified:
  - 1) Receipt the payment as any other payment. (When cash bail is applied as revenue, the "Bapplied" code is entered. However, there is no currently equivalent code for the "Trust Without a Case" monies to be applied once the case is identified.)
  - 2) Make a notation in the court's daily accounting records that these previously "unidentified" trust monies are now being applied to Case XXXXX. (When cash bail is applied, the Trust Applied Report can be generated, but there is currently no equivalent report on Caselle for "Trust Without A Case" payments when they are applied.)
  - 3) Notify the local government to transfer the amount from the "Trust Monies Without a Case" account because it is included in the daily revenue totals on the day of the transfer. (This is done in the same way as when cash bail is applied.)

Note that because this transfer is done in the accounting records, the actual monies deposited will not agree with the amounts per the Collection Summary. The trust monies transferred to revenue (applied), plus actual monies deposited, less new cash bail and any other un-updated payments, will equal the total collections per the Collections Summary.

***Disbursement of Restitution, Third-Party Reimbursements, Overpayments, Refunded Cash Bail***

- For trust monies disbursed, make the appropriate docket entries. Disburse monies that are to be paid to a party within 7 days of deposition/receipt, per UCA §§ 78-5-126 and 135. Process the request for disbursement promptly to allow the local government time to issue and mail the check. However, if the restitution, overpayment, etc., was paid by check, the court may want to adopt a policy to delay processing the disbursement for 10 business days to ensure the check payment received by the court is honored. This is a practice in State Courts.

The local government should return a copy of the check to the court for verification that the check was issued. Note: for good separation of duties, the local government should ensure the check is mailed

immediately after it is signed. The signed check should not be returned to the court to be mailed, only a copy of the check.

- Create a disbursement folder to monitor disbursements due. On the day the monies are identified as due to a party (whether by court order or because an overpayment or restitution was received), make an entry in the court docket detailing the disbursement due. For example:
  - (1) Overpayment (paid by check) was received this date and will be refunded to XX after the 10-business-day holding period. A disbursement request will be processed after [date].
  - (2) Per court order, \$500 of the cash bail posted will be refunded to XX. A disbursement request will be processed this date.

Place a copy of the docket in the folder filed according to the date the disbursement request will be processed. Monitor the folder weekly to ensure disbursements are processed timely.

- Record disbursements on a Disbursement Journal (form is available on the web at: <http://www.utcourts.gov/courts/just/audit/forms.asp>). The Disbursements Journal serves as a central record for all disbursements authorized by the court. See detailed procedures on the bottom of the form.

#### **4.1 Reconciliation of Trust Monies**

- For cash bail, periodically reconcile the Cash Bail Trust Activity Reports available on the case management system<sup>5</sup> to the local government ledger trust account(s) to ensure that amounts held per the court records agree with amounts per the local government ledger.

Care must be taken to ensure the accuracy of the amounts posted to the Trust Activity Reports. The court's trust records serve as the supporting detail (subsidiary ledger) for the trust account(s) in the local government general ledger. The amounts held per the court records should agree with amounts held per the local government records at all times (adjusting for timing differences for items in transit).

The local government ledger and bank statement also need to be reconciled monthly, per CJA Rule 3-407(3)(C) and the Uniform Accounting Manual for Local Governments in Utah, IV. Town Section, B.01 Record Keeping Requirements.

- For all other trust monies, use the reports described above in section 2.2 to reconcile trust monies held per the local government ledger trust account to the court's control listings for trust monies held.

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<sup>5</sup> Trust Activity Reports: 1) Cash Bail Outstanding, 2) New Trust, 3) Forfeiture Trust, 4) Applied Trust, and 5) Refunded Trust